

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ARTISAN MANUFACTURING CORPORATION, :

Plaintiff, :

- against - :

ALL GRANITE & MARBLE CORPORATION., :

Defendant. :
----- X

Civil Action No.:
07 cv 11278 (WHP)

**DECLARATION OF ALEX HAN IN SUPPORT OF PLAINTIFF'S MOTION FOR A
PRELIMINARY INJUNCTION, TEMPORARY RESTRAINING ORDER
AND ORDER FOR EXPEDITED DISCOVERY**

ALEX HAN, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct to the best of his knowledge:

1. I am the founder of Artisan Manufacturing Corporation ("Artisan"). I presently hold the title of Marketing Director. I make this declaration in support of Artisan's motion for a preliminary injunction, temporary restraining order and order for expedited discovery against Defendant All Granite & Marble Corporation ("All Granite").

ARTISAN AND ITS VALUABLE TRADEMARKS

2. Since 2003, Artisan has manufactured, marketed, and sold high quality, stainless steel sinks, faucets and accessories. Artisan is considered a premium, top-of-the-line sink manufacturer, and its ARTISAN brand sinks are comparable to other high-end brands such as Kohler, Blanco and Elkay.

3. In fact, Artisan was among the first sink manufacturers to begin using heavy 16 gauge stainless steel — which is 10-20% thicker than 18 gauge, almost 15-25% thicker than 20

gauge stainless steel and more resistant to stains and corrosion — for non-commercial home-use applications. Further, ARTISAN brand sinks have the function and convenience of professional sinks, with extra deep bowls that can accommodate large pots and pans and plumbing components that are fully coated and with rubber to deaden sound. In fact, we use the largest sound deadening pads in the industry and put pads on all sides of the sink. Artisan also undercoats the sink for both added sound deadening and thermal retention.


4. Because the finish of the sink is the most important aspect of any stainless steel sink, Artisan also strives to provide the finest finish available on any sink. Among Artisan's investments toward that goal is the use of German sanding equipment that produces the type of brush strokes used by high-end kitchen appliance manufacturers such as Bosch, KitchenAid and SubZero. This extra step that Artisan takes allows for a visually appealing and uniform overall look among a client's kitchen appliances. Also adding to the visual appeal of our sinks is the fact that Artisan offers one of the tightest edge radiuses, which allows for use of less silicone and also allows the interior of the sink to be much larger.

5. ARTISAN brand sinks are distributed and sold through a nationwide network of authorized distributors, dealers and resellers. At present, approximately 800 authorized dealers and resellers make up Artisan's distribution network, including over 200 authorized dealers and resellers in New York and New Jersey. Additionally, ARTISAN brand sinks are offered via the Internet through websites such as www.irawoods.com and www.uskitchenware.com. Printouts of pages displaying ARTISAN brand sinks on these websites are attached hereto as Exhibit A.

6. The process of becoming an authorized dealer or reseller of ARTISAN brand sinks is not a simple one, however. Rather, Artisan carefully examines each entity that seeks to distribute ARTISAN brand product to ensure that the entity has a good reputation for quality and service. We also inquire as to whether the prospective dealer provides a high-quality sales



environment; offers high quality granite and other products of the same caliber as ARTISAN brand sinks; has a substantial and well-trained sales force that can deliver a sales pitch that best reflects the image and quality of ARTISAN brand sinks; maintains sufficient credit-worthiness to satisfy Artisan; and cares about its customers and potentially those who would buy an ARTISAN brand sink.

7. Artisan is the owner of a registration in the U.S. Patent and Trademark Office (“USPTO”) for the trademark ARTISAN, as well as an application to register its FLEUR-DE-LIS design mark, for use with sinks, as follows:

Trademark	Serial/ Registration No.	Goods	Status
ARTISAN	2,964,024	Sinks, namely, stainless steel and color sinks; plumbing fixtures, namely, stainless steel hot water tanks; bath tubs; sanitary apparatus and installations, namely, stainless steel toilets, stainless steel sinks, in Class 11	Registered; first use Sept. 1, 2003
	77/316,683	Sinks, in Class 11	Application filed; first use Aug. 21, 2003

Copies of the records of the USPTO for the foregoing registration and application are attached hereto as Exhibit B. Collectively the marks that are the subject of the foregoing registration and application are hereinafter referred to as the “ARTISAN Trademarks”.

8. Artisan is also the owner of the following applications to register ARTISAN and the FLEUR-DE-LIS design mark in the USPTO as follows:

Trademark	Serial or Registration No.	Goods	Status
ARTISAN	77/314,100	Bottom grids and draining baskets for use with kitchen sinks, in Class 21	Application filed; first use Feb. 22, 2005
	78/363,897	Kitchen accessories, namely, cutting boards, colanders; dish trays for use with kitchen sinks, toilet paper holders and tissue holders, in Class 21	Application filed; intent to use
	78/979,572	Bottom grids, draining baskets, in Class 21	Application filed; first use Jan. 3, 2005

Copies of the records of the USPTO for the foregoing applications are attached hereto as Exhibit C.

9. Artisan has expended substantial time, money and other resources in developing, advertising and promoting kitchen fixtures and sinks bearing the ARTISAN Trademarks to consumers. In fact, Artisan has spent more than \$400,000 since 2003, and intends to spend an additional \$200,000 in 2008, to advertise and promote its products. Advertisements for ARTISAN brand sinks, which feature the FLEUR-DE-LIS design mark, have appeared in publications including *Better Homes & Gardens*, *Trends*, *Signature Kitchens*, *Food & Wine*, *Bath & Kitchen PRO*, *Kitchen & Bath Business* and *Stone World*. Copies of examples of some of these advertisements are attached hereto as Exhibit D.

10. As a result of these efforts, Artisan has enjoyed significant commercial success and consumers have come to readily identify sinks sold under and bearing the ARTISAN Trademarks as being of the highest quality and as emanating from and being sponsored and

approved by Artisan. Indeed, since 2003, sales of ARTISAN brand sink and related accessories have generated over \$20 million in sales, with the company enjoying significant growth during that time. As a consequence, the goodwill symbolized by the ARTISAN Trademarks is of incalculable value.

ALL GRANITE'S UNLAWFUL ACTIVITIES

11. In October 2003, Artisan entered into discussions with All Granite, a fabricator and installer of granite and marble countertops in kitchens and bathrooms, to become an authorized dealer of ARTISAN brand sinks. In conjunction with its countertop installation services, All Granite also offers sinks and related accessories to consumers.

12. In November 2004, All Granite became authorized to supply and resell ARTISAN brand sink products and accessories. Specifically, Artisan entered into an agreement with Jaroslaw Wojtach, Chief Executive Officer of All Granite, whereby All Granite agreed to purchase 1,600 ARTISAN brand sinks. Pursuant to the agreement, Artisan also provided All Granite with an ARTISAN brand sink featuring Artisan's FLEUR-DE-LIS design mark for use in All Granite's retail showroom.

13. In late August 2006, Artisan ended its relationship with All Granite. While Artisan had made several attempts to salvage its relationship with All Granite, All Granite fell short of the standards Artisan requires of its dealers, and seemed to be intent on offering its customers lower cost inferior products. Artisan has not sold any ARTISAN brand products to All Granite since August 2006.

14. In late October 2007, Artisan learned from All Granite customers that All Granite was still displaying ARTISAN brand sinks bearing Artisan's FLEUR-DE-LIS design mark in its retail showrooms, and was purporting to provide ARTISAN brand sinks along with its kitchen

countertops and countertop installation services. Specifically, customers of All Granite began contacting Artisan to purchase accessories for the sinks being installed by All Granite, and to report problems with the sinks. These customers told Artisan that, at the point of sale, All Granite's salesperson showed them a model installation with an ARTISAN brand sink, bearing the FLEUR-DE-LIS design mark, and represented that the ARTISAN brand sink shown will be part of the installation performed by All Granite. When these customers contracted with All Granite and ordered countertop installations, however, the countertop was installed in their homes with a sink that was not an authentic ARTISAN brand product. Instead, a substitute sink, bearing a fleur-de-lis design that is confusingly similar to Artisan's FLEUR-DE-LIS design mark, was installed. Moreover, at no point in time did All Granite inform these customers that the sink All Granite actually installed was not an ARTISAN brand sink. A photograph of the fleur-de-lis design that appears on the substitute sink installed by All Granite is attached hereto as Exhibit E.

15. In November and December 2007, Artisan confirmed these reports by hiring a private investigator to visit the All Granite showroom and order a countertop installation with the promised ARTISAN brand sink. Indeed, Artisan went so far as to have an actual countertop installation completed. Artisan's investigation confirmed that not only is an ARTISAN brand sink on display in the All Granite showroom, but that All Granite's salespeople make specific and direct representations to potential consumers that a genuine ARTISAN brand sink will be installed in conjunction with the countertop installation. Further, just as reported by All Granite's customers, the actual sink installed is not an ARTISAN brand sink, but instead is an inferior sink that bears a fleur-de-lis design that is obviously intended to mimic Artisan's FLEUR-DE-LIS design mark.


16. On December 14, 2007, Artisan's attorney, Louis Ederer, sent a cease and desist letter to All Granite demanding that All Granite immediately cease its unlawful infringing activity. In response, however, All Granite denies any wrongdoing and specifically claims that an ARTISAN brand sink is not on display in All Granite's showroom.

17. As noted above and as shown by the accompanying declarations of Allison Davies and Celia Muller, not only does All Granite make specific and direct reference to ARTISAN brand sinks during its sales pitches to potential customers, it also displays, and continues to display — even after Artisan's cease and desist letter — an ARTISAN brand sink on its showroom floor.

18. Further, while All Granite has offered to "phase out" the use of the substitute sinks that bear the infringing fleur-de-lis design that is confusingly similar to Artisan's FLEUR-DE-LIS design mark, this offer does nothing to offset the damage that has been done to the ARTISAN brand by All Granite's deceptive conduct. By displaying sinks bearing the ARTISAN Trademarks in its showroom, and by otherwise promising customers genuine ARTISAN brand sinks as part of the sale of All Granite's countertop installation services, and then substituting inferior sinks bearing confusingly similar marks, All Granite is deliberately attempting to deceive consumers into believing that the substitute sinks are authentic ARTISAN brand sinks manufactured and sold by Artisan. Among other things, customers have reported to Artisan that the gauge, or thickness, of the substitute sinks was inferior to Artisan's high quality 16-gauge sinks and that they have encountered difficulty in finding accessories, such as "bottom grids" that help prevent the sinks from scratching, to be used in conjunction with the purported ARTISAN brand sinks. As a consequence, and unless this Court directs All Granite to take corrective action, customers who are dissatisfied with the substitute sinks installed by All Granite will think negatively of Artisan, which they were led to believe was responsible for

manufacturing the sink, not All Granite. Further, as All Granite's continued display of an ARTISAN brand sink in its showroom demonstrates, All Granite will not stop its unlawfully deceptive conduct unless ordered by this Court to do so.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
AND CORRECT. EXECUTED ON JANUARY 8, 2008.



Alex Han